

7/09 Freddie Mac Home Valuation Code of Conduct Q&A

The Code

1. What loans are impacted by the Code?

On and after May 1, 2009, Freddie Mac will not purchase mortgages from Sellers that do not adopt the Code with respect to single-family mortgages that are delivered to Freddie Mac.

2. Does the Code apply to non-origination valuation activities such as loss mitigation activities?

The Code only applies to the loan origination process. It does not apply to a lender's foreclosure/REO process, workouts, or any other type of loss mitigation activity.

3. How will you handle issues and concerns raised by customers as the Code is implemented?

Freddie Mac will work with our customers to address any issues or concerns regarding implementation of the Code. We will maintain ongoing contact through our various communications channels including newsletter articles and Web content. If customers have immediate questions, they should contact their Freddie Mac account representative or email us using our [Home Valuation Code of Conduct Inquiry Form](#).

4. What does it mean to adopt the Code on May 1, 2009?

Lenders must represent and warrant that as of May 1, 2009, they have in place the structure, policies, and procedures required to comply with the Code and that appraisals used for mortgages with application dates on or after May 1, 2009, were obtained in a manner consistent with the Code.

Selection of Appraisers, Ordering Appraisals

5. Are lenders permitted to use in-house appraisers to obtain appraisals?

Yes. Lenders are permitted to use in-house appraisers to obtain and prepare appraisal reports if the lender is in compliance with Section IV.B. of the Code.

6. Are lenders permitted to use appraisers who have been selected or retained by a mortgage broker or real estate agent?

No. The Code specifically prohibits lenders from accepting appraisal reports completed by an appraiser selected, retained or compensated in any manner by mortgage brokers and real estate agents. Please refer to Section III.A. of the Code for further information regarding who is authorized to select and retain appraisers.

7. Are lenders allowed to use appraisals ordered by appraisal management companies that provide other settlement services for the same transaction?

Yes. Lenders may use appraisal management companies to obtain appraisals as long as they comply with the requirements of Section IV.C. of the Code.

8. **NEW** How do lenders determine the correct process for selecting an appraiser?

Sellers must comply with the following requirements related to the selection of an appraiser:

- Sellers must select appraisers in compliance with the terms of the Code
- Appraisers must be certified or licensed in the state in which the property is located, and must be eligible to perform appraisals in that state
- Appraisers must be familiar with the local market in which the property is located, must be competent to appraise the subject property type, and must have access to the data sources needed to develop a credible appraisal
- For additional information regarding appraisers and appraisal requirements, please refer to our Freddie Mac *Single-Family Seller/ Servicer Guide* (Guide) Bulletin 2009-18 issued on July 10, 2009.

9. **NEW** Are processors, closers, secondary marketing employees, underwriters, etc., permitted to order appraisals if they do not receive commission or incentives to close loans, but report up to a senior level employee who is responsible for loan production?

The Code states that members of the lender's loan production staff who are compensated on a commission basis or who report to any officer of the lender not independent of the loan production staff and process are not permitted to order appraisals or influence the selection of appraisers. Lenders should establish complete separation of appraisal activities from loan production activities. At an absolute minimum, the degree of separation should be no less than one level up in the reporting structure. To mitigate any potential conflict of interest due to reporting relationships, Sellers should establish, maintain, and enforce written policies and procedures that are designed to reinforce independence. (If absolute lines of independence cannot be achieved as a result of the lender's small size and limited staff, the lender must be able to clearly demonstrate that it has prudent safeguards to isolate its collateral evaluation process from influence or interference from its loan production process.)

10. **NEW** Does the Code require lenders to select appraisers on a rotational basis to perform appraisals?

No. Lenders may choose to use a rotating roster of appraisers, but this is not a requirement of the Code.

11. **NEW** Does the Code require an appraisal where lenders were previously not required to complete one or when Freddie Mac does not require an appraisal valuation? (For example, if the value has not declined since the original appraisal was completed on a Freddie Mac owned streamlined refinance.)

No, Section IX of the Code states that it shall not be construed to establish new requirements or obligations that require the lender to obtain a property valuation, or use any particular method for property valuation (such as an appraisal or AVM).

12. **NEW** Does the Code address standards the appraiser must follow when performing an appraisal?

No. The Code addresses the relationship between the lender and the appraiser, not appraisal standards. For more guidance on our appraisal requirements, lenders should review Chapter 44 of our *Single-Family Seller/ Servicer Guide* and *Single-Family Seller/ Servicer Guide* (Guide) Bulletin 2009-18 issued on July 10, 2009.

13. If a lender finds an error or problem with an appraisal, is the lender allowed to contact the appraiser to correct the error?

Yes. Nothing prohibits the lender from requesting that an appraiser (i) provide additional information or explanation about the basis for valuation or (ii) correct objective factual errors in an appraisal report as outlined in Section I.C. of the Code.

14. Is appraiser communication with the loan production staff acceptable when the appraiser cannot gain access to a property or locate an address?

Communication between the loan production staff and the appraiser for issues of this nature are permissible under the Code. Conversations that relate to or have an impact on valuation, however, are not permitted under the Code.

15. What does it mean to "order" an appraisal?

Ordering an appraisal means engaging the appraiser's services to perform an appraisal of a specific property. The party that orders an appraisal is the party that the appraiser identifies in the lender/client field on the appraisal report.

16. Can a broker initiate an appraisal request through a lender's designated appraisal management company (AMC)?

This process is permissible provided all of the following criteria are met:

- The AMC is specifically authorized by the lender to act on its behalf and the AMC is not acting on behalf of the mortgage broker,
- The AMC selects, retains, and provides for payment of all compensation to the appraiser on the lender's behalf,
- The appraiser's client is the lender and the appraiser correctly identifies the lender as the lender/client on the appraisal report,
- The lender has policies and procedures in place that comply with the Code, and
- The lender ensures that the AMC has policies and procedures in place that comply with the Code.

17. May a lender direct a broker to use a Web portal set up either by the lender, or by the lender's authorized agent, through which the broker inputs a request for an appraisal and then triggers the lender's system to order an appraisal?

Yes. A lender may direct a broker to use a Web portal in this manner.

18. Does the Code permit a broker to select an appraiser from the lender's list of approved appraisers, if the lender is responsible for the relationship with the appraiser, including compensation?

No. The Code prohibits lenders from relying on an appraisal where the broker had a role in selecting, retaining, or compensating the appraiser.

19. Can brokers select a specific appraisal management company (AMC) if the lender works with more than one AMC?

No. If the lender works with more than one AMC, the lender must select the AMC. The mortgage broker cannot select from a list of approved AMCs.

20. Does the Code require appraisals to be ordered through an appraisal management company (AMC)?

No. The Code does not require appraisals to be ordered through an AMC.

21. Who may directly pay an appraiser for appraisal services?

Only the lender or a third party specifically authorized by the lender (including but not limited to appraisal companies, appraisal management companies (AMCs), and correspondent lenders) may directly pay an appraiser for appraisal services. Lenders may charge the broker or the borrower for the appraisal fee. An AMC may accept the appraisal fee from the broker or the borrower, provided:

- The AMC is specifically authorized by the lender to act on its behalf,
- The AMC accepts the borrower's/broker's payment on behalf of the lender and not on behalf of the appraiser,
- The AMC selects, retains, and provides for payment of all compensation to the appraiser on the lender's behalf, (not the borrower's behalf),
- The appraiser's client is the lender and the appraiser correctly identifies the lender as the lender/client on the appraisal report,
- The lender has policies and procedures in place that comply with the Code, and
- The lender ensures that the AMC has policies and procedures in place that comply with the Code.

22. Can trainee appraisers still complete appraisals?

Trainees can continue to perform appraisal work. The supervisory appraiser who signs the report must meet the licensing/certification requirements.

Appraisal Transfers, Second Appraisal, and AVMs

23. Can lenders accept appraisals transferred from another lender?

A lender may accept an appraisal from a different lender if both of the following criteria are met:

- The lender receiving the transferred appraisal obtains written assurances that the original lender has adopted and complied with the Code in connection with the loan being originated; and
- The lender receiving the transferred appraisal determines that the appraisal conforms to its own requirements and is otherwise acceptable.

A lender may also accept an appraisal from an appraisal management company (AMC) specifically authorized by the original lender to act on its behalf if the lender receiving the transferred appraisal obtains written assurances from the original lender that the appraisal was obtained in a manner consistent with the Code.

24. What documentation is required during an appraisal transfer to demonstrate that the lender transferring the appraisal is complying with the Code?

Each lender must develop its own documentation requirements to ensure compliance with the Code, based on its business model and processes.

25. Is a second appraisal or Automated Valuation Model (AVM) permitted in a lender's foreclosure/REO processes?

Yes. The Code does not apply to the lender's foreclosure/REO process.

26. Are lenders permitted to order a second appraisal or AVM on high-value or unique properties to ensure the most accurate value is obtained?

Yes, as long as such appraisal or AVM is done pursuant to:

- Written, pre-established bona fide pre- or post-funding appraisal review or quality control process or underwriting guidelines.
- Lender adherence to a policy of selecting the most reliable appraisal as stated in Section I.B. (9) of the Code.

27. **NEW** Does the Code prohibit appraisers from reviewing reconsideration of value requests?

No. Reconsideration of value requests that are based on correcting objective, factual errors (such as incorrect square footage, incorrect number of rooms, etc.) are permissible under the Code.

28. **NEW** Does the Code prohibit the use of foreclosures as comparable sales?

No. The Code does not address the use of foreclosures as comparable sales nor does Freddie Mac require appraisers to use Real Estate Owned (REO), foreclosures, or short sales as comparables sales. However, if the appraiser determines that REOs, foreclosures, or short sales are representative of the properties available to typical purchasers for the market in which the property is located, appraisers must consider their use. For more guidance on appraisal requirements, please review Chapter 44 of our *Single-Family Seller/Service Guide* and *Single-Family Seller/Service Guide* (Guide) Bulletin 2009-18 issued on July 10, 2009.

29. **NEW** Does the Code prohibit the appraiser from communicating with the realtor involved in the subject transaction?

No. The Code does not prohibit the appraiser from speaking with the realtor. Information provided by the realtor or any other third party should be researched and independently verified by the appraiser. An appraiser must certify that information received from anyone with a financial interest in the sale or financing of the subject property was verified by a disinterested party (see Appraiser's Certification #10 on Freddie Mac Form 70, *Uniform Residential Appraisal Report*).

30. **NEW** Does Freddie Mac require that Form 2070 be compliant with the Code?

Form 2070, *Loan Prospector Condition and Marketability Report*, is an inspection report that is used with an AVM. Although our *Single-Family Seller/Service Guide* discusses Form 2070, Freddie Mac no longer allows the use of Form 2070.

Appraisal Report Copies

31. **NEW** The Code requires that lenders provide the borrower with a copy of the appraisal report at least three business days prior to the closing of the loan unless the borrower waives this requirement. Is Saturday included as a business day?

Yes. For this requirement, we consider Monday through Saturday business days. Sundays and legal holidays are not considered business days.

32. **NEW** Is "closing" of the loan defined as the date the documents are executed or the date the funds are disbursed?

For this requirement, we define "closing" as the date the borrower executes the loan documents.

33. **NEW** Borrowers must be provided with a copy of the appraisal at least three days prior to closing unless the borrowers sign a waiver stating that they do not wish to receive a copy of the appraisal. When do borrowers need to waive this requirement; can it be at loan closing?

No. The Code requires that the lender provide the borrower with a copy of the appraisal report at least three days prior to the loan closing unless the borrower waives the requirement. Although the Code does not explicitly require that the borrower waive this requirement three days prior to the closing, waiting until closing to have the borrower waive this requirement is not within the spirit of the Code and thus, Freddie Mac does not view this as a permissible practice.

34. **NEW** How do we document the delivery of the appraisal or the waiver?

The Code does not require a specific method for documenting either the borrower's receipt of the appraisal three days prior to closing or a waiver. We advise lenders to develop their own policies and procedures to document the borrower's receipt of the appraisal or the waiver. Documentation should be in writing (e.g., notes regarding a borrower's phone call, borrower's execution of a form, etc.).

35. **Is it acceptable for a lender to provide brokers and loan production staff a copy of the completed appraisal?**

The Code does not specify when or to whom a copy of the appraisal can be provided. The Code states that borrowers must receive a copy of the appraisal a minimum of three business days prior to closing unless they waive the three-day requirement.

36. **Can an appraiser's information be omitted from the appraisal report prior to sending it to the borrower?**

No. A complete, unaltered copy of the appraisal report must be provided to the borrower.

37. **If two appraisals are obtained as part of the underwriting process, does a lender have to provide copies of both appraisal reports to the borrower or only a copy of the appraisal used to determine value?**

Section II of the Code requires that the borrower be provided with a copy of "any" appraisal report; therefore, copies of all appraisal reports obtained must be provided to the borrower.

38. **Can a lender create a form to document the borrower's waiver of the right to receive a copy of the appraisal report at least three days prior to the closing?**

A lender may choose to create a form to document the borrower's waiver. The borrower must acknowledge agreement of the waiver, but the lender can determine the method of agreement.

39. **Please clarify the requirement that a completed appraisal report be provided promptly upon completion?**

The terms "promptly upon completion" and "completed appraisal" refer to when the lender has reviewed and accepted the appraisal.

40. **If I am permitted to use an AVM such as Home Value Explorer (HVE) to estimate property value, am I required to meet the Code requirements in Section II and provide the borrower with a copy of the AVM result three days before closing?**

The Code does not require lenders to provide borrowers a copy of an AVM result.

Small Bank Exemption

41. **My institution is already required to comply with federal regulations regarding appraisals. Does this exempt my institution from the Code?**

No. All Freddie Mac Sellers must comply with the Code, which has been added as an Exhibit to the Guide.

42. **Section IV.E of the Code allows an exemption to Section IV if the lender meets the definition of "small bank" and Freddie Mac determines the lender would suffer a hardship due to the provisions provided in Section IV of the Code. What are the requirements for this provision?**

An institution falls under the provisions of Section IV.E of the Code if it is a regulated financial institution with aggregate assets of not more than \$250 million, as specified in 12 U.S.C. §2908, and meets the requirements, if any, of the institution's regulatory agency regarding the Interagency

Appraisal and Evaluation Guidelines (SR Letter 94-55 and revisions). As with the entire Code, this provision is subject to Freddie Mac's representations and warranties. Sellers falling under Section IV.E are still required to comply with the remainder of the Code, including Section III, which duplicates many of the requirements of Section IV. Please note that the asset value as specified in 12 U.S.C. §2908 is updated periodically and you must continue to meet the statute requirements with regard to the Code when the value is updated.

43. Is a lender required to submit documentation to Freddie Mac to take a Section IV.E small bank exemption?

Freddie Mac does not require a lender to submit documentation to become exempt pursuant to Section IV.E of the Code. A lender claiming this exemption, however, represents and warrants that it meets the criteria of Section IV.E.

Loan Production Staff & Training

44. Does the Code's definition of loan production staff include underwriters and processors?

The loan production staff consists of those responsible for generating loan volume or approving loans, as well as their subordinates. This would include an employee whose compensation is based on loan volume or the closing of a loan transaction. Employees responsible for the credit administration function or credit risk management are not considered loan production staff.

45. What does it mean to be appropriately trained and qualified in the area of real estate appraisals?

Each lender must determine what constitutes adequate training and qualifications. At a minimum, the trained and qualified individual must understand the Code, appraisal regulations and enforcement, as well as the Uniform Standards of Professional Appraisal Practice.

46. Can non-commissioned employees who order appraisals report to the same person as the loan production staff?

No. Section III (B) of the Code prohibits any person who reports to an individual connected to the loan production staff from ordering an appraisal.

Quality Control

47. Would Freddie's Mac's in-house quality control requirements outlined in Guide Chapter 48 be sufficient to meet the Code's quality control requirements?

Yes. Our Guide Chapter 48 quality control requirements will satisfy the Code's quality control requirements.

48. How is a "statistically significant percentage" in Section VI defined?

The Code requires a random sampling of either 10 percent of all appraisals or valuations that are used by the lender, or another bona fide statistically significant percentage. The sample is considered a bona fide statistically significant sample if the sample is representative of the population, and inferences and conclusions made from the sample can be extended to the population as a whole.

49. Is a quality control review required for all valuation methods included in the mortgage file (i.e., full appraisal, AVM, desk review, field review)?

The quality control review must be performed on the valuation method that was used for determining the loan-to-value (LTV) for the transaction.

Non-Compliance / IVPI

50. Is a loan eligible for sale to Freddie Mac if the lender purchased the loan from a correspondent that did not comply with the Code in originating that loan?

No. It is the lender's responsibility to ensure that all loans it purchases with intent to deliver to Freddie Mac are in full compliance with the Code. Effective May 1, 2009, Freddie Mac will no longer purchase mortgages from Sellers that do not adopt the Code with respect to single-family mortgages that are delivered to Freddie Mac. Also, effective for single-family mortgages with loan application dates on or after May 1, 2009, Freddie Mac Seller/Servicers must represent and warrant that the appraisal report is obtained in a manner consistent with the Code. See also Section III.A. of the Code.

51. What does the Code require a lender to do if a lender has reason to believe that an appraiser or appraisal management company is violating the law or practicing unethical conduct?

As outlined in Section VII of the Code, the lender must promptly refer the matter to the applicable state appraiser certifying and licensing agency.

52. What are the penalties for violations of the Code?

As discussed in Section VIII of the Code, Freddie Mac will treat breaches of the Code the same as any other breach of a Seller's representations and warranties. This could include suspension or termination of the lender's eligibility to sell loans to Freddie Mac if the lender fails to remediate violations.

53. When will the Independent Valuation Protection Institute be established?

We are working with the New York State Attorney General, FHFA, and Fannie Mae regarding the Institute. The timing is still being determined. As details are finalized, we will notify Freddie Mac Sellers. Because the Institute has not yet been established, the provisions regarding it in the Code are not yet effective.